

MONTANA LEGISLATIVE HISTORY

Chapter 223 19 95

Bill H 274 S _____

Original bill & history ☒ c

H. Committee on Natural Res.

Hearing Date(s) 1-25 ☒ c

1-30 ☒ c

2-1 ☒ c

_____ c

Date Out _____ c

S. Committee on Natural Res.

Hearing Date(s) 3-1 ☒ c

3-6 ☒ c

3-8 ☒ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

2/20	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/11	HEARING		
3/17	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED AS AMENDED	38	10
3/27	3RD READING CONCURRED	34	16
	RETURNED TO HOUSE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	96	3
4/04	3RD READING AMENDMENTS CONCURRED	96	2
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 479		
	EFFECTIVE DATE: 04/15/95		

HB 273 INTRODUCED BY GRINDE, ET AL.

SUBMIT TO QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE LEGISLATURE SHALL MEET IN REGULAR SESSION BIENNIALLY IN EVEN-NUMBERED YEARS OR IN ODD-NUMBERED YEARS

1/18	INTRODUCED		
1/18	FIRST READING		
1/18	REFERRED TO STATE ADMINISTRATION		
1/24	HEARING		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	85	15
2/10	3RD READING PASSED	87	13
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO STATE ADMINISTRATION		
3/07	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED		
3/20	2ND READING CONCUR AS AMENDED MOTION		
	FAILED	15	35
	(BILL PROPOSING AMENDMENTS TO THE CONSTITUTION PROCEEDS IN THE PROCESS. AMENDMENTS PASSED ON 2ND READING WERE INCLUDED IN BILL.)		
3/21	3RD READING FAILED	14	36
	(BILL PROPOSING AMENDMENTS TO THE CONSTITUTION PROCEEDS IN THE PROCESS.)		
	RETURNED TO HOUSE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	92	6
4/04	3RD READING AMENDMENTS CONCURRED	87	13
	COMBINED 3RD READING VOTE WAS 101-49; BILL RECEIVED REQUIRED 2/3 VOTE NECESSARY TO PASS.		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
	CHAPTER NUMBER 341		
	EFFECTIVE DATE: 01/01/98, CONTINGENT UPON VOTER APPROVAL		

HB 274 INTRODUCED BY WAGNER, ET AL.

GRANT DEPARTMENT OF STATE LANDS BROADER DISCRETION TO EXPEDITE SALES OF STATE TIMBER IN EMERGENCY SITUATIONS AND LIMITED ACCESS OPPORTUNITY SITUATIONS

1/18	INTRODUCED
1/18	FIRST READING
1/18	REFERRED TO NATURAL RESOURCES

1/24	FISCAL NOTE PRINTED		
1/25	HEARING		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	93	5
2/04	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
2/06	FIRST READING		
2/06	REFERRED TO NATURAL RESOURCES		
3/01	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	49	1
3/16	3RD READING CONCURRED	44	6
	RETURNED TO HOUSE		
3/17	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 223		
	EFFECTIVE DATE: 10/01/95		

HB 275 INTRODUCED BY WISEMAN

PROVIDE FOR PAYMENT OF RETIREMENT BENEFITS BY ELECTRONIC FUNDS TRANSFER

1/18	INTRODUCED
1/18	FIRST READING
1/18	REFERRED TO STATE ADMINISTRATION
1/19	FISCAL NOTE REQUESTED
1/24	HEARING
1/25	FISCAL NOTE RECEIVED
1/25	FISCAL NOTE PRINTED
2/08	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 276 INTRODUCED BY KEENAN

EXEMPT A GOLF COURSE CADDY FROM COVERAGE UNDER THE STATE MINIMUM WAGE, OVERTIME, UNEMPLOYMENT INSURANCE, WORKERS' COMPENSATION, AND CHILD LABOR LAWS

1/18	INTRODUCED
1/18	FIRST READING
1/18	REFERRED TO BUSINESS & LABOR
1/19	FISCAL NOTE REQUESTED
1/24	FISCAL NOTE RECEIVED
1/25	FISCAL NOTE PRINTED
1/25	HEARING
1/26	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 277 INTRODUCED BY HURDLE

REQUIRE TRUSTEES OF A SCHOOL DISTRICT TO ADOPT POLICIES WITH REGARD TO SITE-BASED MANAGEMENT FOR ACADEMIC IMPROVEMENT OF INDIVIDUAL SCHOOLS OF THE DISTRICT AND TO ESTABLISH A LOCAL SCHOOL COUNCIL FOR EACH SCHOOL OF THE DISTRICT

1/19	INTRODUCED
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INTRODUCED BY Wagner House BILL NO. 274
Wash Boi M. Hansen

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DEPARTMENT OF STATE LANDS BROADER DISCRETION TO EXPEDITE SALES OF STATE TIMBER IN EMERGENCY SITUATIONS AND LIMITED ACCESS OPPORTUNITY SITUATIONS; EXEMPTING CERTAIN LIMITED ACCESS OPPORTUNITY TIMBER SALES FROM THE BID PROCESS REQUIREMENTS; EXEMPTING EMERGENCY AND LIMITED ACCESS OPPORTUNITY TIMBER SALES FROM CERTAIN ENVIRONMENTAL IMPACT STATEMENT PROVISIONS OF THE MONTANA ENVIRONMENTAL POLICY ACT; AND AMENDING SECTION 77-5-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-5-201, MCA, is amended to read:

"77-5-201. Sale of timber. (1) Under the direction of the board, the department may sell the timber crop and other crops of the forests after examination, estimate, appraisal, and report and under ~~such~~ rules as may be established by the board.

(2) Timber proposed for sale in excess of 100,000 board feet ~~shall~~ must be advertised in a paper of the county in which the timber is situated for a period of at least 30 days, during which time the department ~~shall~~ must receive sealed bids up to the hour of the closing of the bids, as specified in the notice of sale.

(3)(a) In cases of emergency due to fire, insect, fungus, parasite, or blowdown or in cases when the department is required to act immediately to take advantage of a limited access opportunity, timber proposed for sale not in excess of 1 million board feet may be advertised by invitation to bid for a period of not less than 10 days. The department may reject any or all bids, upon approval of the board, or it shall award the sale to the highest responsible bidder.

(b) In cases when the department is required to act immediately to take advantage of a limited access opportunity and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1 million board feet without offering the timber for bid if the sale is for fair market value.

(c) In the situations described in this subsection (3), the department is not required to comply with

1 the provisions of 75-1-201(1)."

2

-END-

HOUSE NATURAL RESOURCES

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0201	ELLIS, ALVIN	ANNUAL SUSTAINABLE YIELD AS FACTOR IN MANAGEMENT OF FORESTED STATE LANDS	1/14	1/20	DO PASS	1/23	VOTE: 12-6	EDUCATION	1/24
HB0215	COCCHIARELLA, VICKI	DISCLOSURE STATEMENT REQUIRED FOR HAZARDOUS WASTE MANAGEMENT PERMIT	1/14	1/20	PASS AS AMENDED	2/13	VOTE: 12-6		2/14
HB0218	DEBRUYCKER, ROGER	REQUIRE SALE OF CERTAIN STATE LANDS	1/16	2/06	TABLED ON	02/13	VOTE: 18-0		
HB0263	CURTISS, AUBYN	CLARIFY TRUST RESPONSIBILITY OF BOARD OF LAND COMMISSIONERS	1/18	1/25	Ex.Ac. Postponed 1/30	PASS AS AMENDED	2/1	VOTE: 13-5	2/02
HB0274	WAGNER, DOUGLAS	EXPEDITE STATE TIMBER SALES IN EMERGENCY AND LIMITED ACCESS SITUATIONS	1/18	1/25	Ex.Ac. Postponed 1/30	PASS AS AMENDED	2/1	VOTE: 18-0	2/02
HB0292	FUCHS, DANIEL	REQUIRE WRITTEN STATEMENT DETAILING RESULTS OF SUBDIVISION REVIEW PROCESS	1/20	1/30	DO PASS	2/1	VOTE: 17-1		2/02
HB0338	GRIMES, DUANE	REVISE METAL MINE RECLAMATION ACT	1/26	2/03	PASS AS AMENDED	2/10	VOTE: 10-7		2/13
HB0341	LARSON, DON	TRUST LAND REPLACEMENT ACCOUNT; ALLOW DEFERRED EXCH OF ST & PRIVATE LAND	1/26	2/01	TABLED ON	02/13	VOTE: 13-5		
HB0350	PECK, RAY	CLARIFY BOARD OF LAND COMMISSIONERS AUTHORITY OVER ALL PUBLIC LAND	1/27	2/08	TABLED ON	02/10	VOTE: 18-0		
HB0351	PECK, RAY	CLARIFY DISPOSAL OF CERTAIN UNIVERSITY LAND	1/27	2/08	Amdmts. adopted 2/13	PASS AS AMENDED	2/10	VOTE: 18-0	2/14
HB0381	KNOX, DICK	METAL MINE RECLAMATION ACT REVISIONS	1/30	2/06	DO PASS	2/8	VOTE: 18-0		2/09
HB0403	GRIMES, DUANE	MINIMUM MONITORING REQUIREMENTS FOR COMMERCIAL HAZARDOUS WASTE INCINERATORS	2/01	2/10	TABLED ON	02/15	VOTE: 11-6		

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on January 25, 1995,
at 3:00 PM.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 263, HB 274
Executive Action: HB 137 Do Pass as Amended
HB 162 Do Pass as Amended

Tape 1, Side A

More mushrooms can be grown per acre than trees. Trees are being grown on sites that are not suitable.

Informational Testimony: None

Tape 1, Side B

Questions From Committee Members and Responses:

REP. JON ELLINGSON said he couldn't find guidance in the Enabling Act

for managing state lands and asked REP. CURTISS if there was anything. REP. CURTISS said it could be found on page 23 of the Enabling Act.

REP. HAL HARPER said the Enabling Act notes show that some of the school trust funds have been used to repair, renovate and reconstruct old buildings and to install a roll call machine in the chambers of the House of Representatives. REP. HARPER asked REP. CURTISS if it was her intent that some of the school trust money would be used in these ways. REP. CURTISS referred to page 22, section 17, paragraph 4, of the Enabling Act, that set aside 150,000 acres of state lands for public buildings at the Capitol of the state.

REP. HARPER asked Bud Clinch, Commissioner, Department of State Lands, if there was a list of the current amount of revenue in each of the state land trust funds. Mr. Clinch said he could provide a complete accounting of the exact acreage and revenue streams over whatever period of history REP. HARPER would like to know about. REP. HARPER asked Mr. Clinch if he was correct in his assumption that if the legislature wanted to renovate the Capitol Building it could order that logging be done in the tracts that are hooked to the Capitol Building. Mr. Clinch told REP. HARPER that he was very perceptive and said he could provide him with a map that identifies the specific sections that were dedicated to each of the trusts.

Tape 2, Side A

Closing by Sponsor:

REP. CURTISS said she loved the outdoors and enjoys the multiple uses of state lands. By passing HB 263 those other uses will not be precluded.

HEARING ON HB 274

Opening Statement by Sponsor:

REP. DOUG WAGNER, House District 83, Hungry Horse. Written testimony. EXHIBIT 4

Proponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, said the Department of State Lands currently has no viable way of capturing the potential timber revenue from many sections of trust land which are in effect landlocked by private ownership. The bill states that in cases where private landowners are willing to grant access for a limited timeframe the department staff can efficiently negotiate a limited timber sale without going through the full regulatory process. It still requires that full fair market value be secured for the timber that is sold even though competitive bid will not be held. The Federal Bureau of Land Management currently uses a similar system for negotiating timber sales on sections that it administers and are landlocked by private ownership.

Ed Regan, Forester, Montana's Forest Products Industry. Written testimony. EXHIBIT 5

Daron Duncan, Forester, R Y Timber, Townsend, said one of the greatest obstacles the department has in trying to set up timber sales is access to state lands that are landlocked by private landowners. It is obvious that the timber industry is looking more towards private timber sales instead of Forest Service timber sales to supply the mills. The result will be more private timber sales on private ranch land. The price of timber has reached the point where some ranchers who were not interested in selling timber have discovered the value of their timber lands. Once the landowner has agreed to allow a logging operation to enter his property he doesn't have a problem with allowing the DSL selling some of its lumber at the same time. If HB 274 passes it will generate income for the trust lands.

Tape 2, Side B

Keith Olson, Montana Logging Association, said HB 274 is about management options. State forest lands to which access is blocked are condemned to few management options. Trust is the key to gaining access but these are not times when private landowners have an excess of trust or faith in regulatory agencies or timber harvesters. There are two programs that are addressing that issue. One is the forest stewardship workshop for private timber land owners in Montana and the other is an accredited logging professional program for timber harvesters. These programs are forging a trusting relationship between landowners and loggers. Such relationships will provide opportunities for timber harvesters and persuade landowners that access to state lands can result in responsible harvesting on state-owned lands. **Mr. Olson** urged the committee to support HB 274.

Loren Frazier, School Administrators of Montana, said if the committee felt that HB 274 is going to help increase the revenue that schools receive he urged the committee to give it a Do Pass.

Opponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, opposed HB 274 because it exempts all the sales as well as emergencies due to fire, insect, fungus, parasite, or blowdown from the Montana Environmental Policy Act (MEPA).

Steve Kelly, Friends of the Wild Swan. Written testimony.
EXHIBIT 6

Stan Frazier, Montana Wildlife Federation, said there wasn't any testimony from the proponents of the bill that MEPA is a problem. Since there isn't any evidence that it has been a problem, that section of the bill should be stricken.

Informational Testimony: None

Tape 3, Side A

Questions From Committee Members and Responses:

REP. ROBERT STORY asked Mr. Regan how long it takes to prepare for a timber sale on private land. Mr. Regan said it takes approximately two years for a medium-sized sale.

REP. EMILY SWANSON asked John North, Attorney, DSL, what "limited access opportunity" meant. Mr. North said it means that there is a limited amount of time to get the timber off a tract of land or that there is some other limitation such as access being limited to a certain person.

REP. HAL HARPER asked Bud Clinch, Commissioner, DSL, if the landowner that controls the access can choose the buyer without using the bid process. Mr. Clinch said in areas where logging occurs on private land, relationships develop between the logging contractor and a landowner. There are situations where a private landowner is comfortable with a particular operator who has purchased the timber and is logging his ground. In some instances that landowner may tell DSL that it has been pressing him for access across his land and he has resisted in the past, but because he has confidence that a particular individual is a prudent and credible operator and has carried out operations on his land in a sensible way, he will allow the state access for the next 30 days to do the harvest they have wanted to do on their adjacent land. A landowner in control of access to state lands can stipulate a certain contractor has to do the timber harvesting but the department is obligated to negotiate the sale with the contractor at the full market value.

REP. BOB RANEY asked Mr. Clinch if it takes two years to set up a timber sale and there happens to be a state-owned section in the middle of it that the department finds out about a few days before the sale, why wouldn't the department have time to

capitalize on it without having to have some sort of emergency condition. Mr. Clinch said the department will continue to carry out its timber sale program under its current guidelines to the greatest extent possible. The majority of timber sale salvage opportunities that exist will be captured through the existing program with the existing timeframes. The department's interpretation of the bill is that it has limited options for specific cases due to time constraints such as the time of notification from the landowner relative to access.

Mr. Regan clarified that the two years it takes to lay out a timber sale includes hunting season closures, spring break-up of roads and other factors that might be involved.

Tape 3, Side B

REP. AUBYN CURTISS asked Gary Williams, DSL, what the timeframe is in which bug-killed timber must be harvested before it loses its marketable value. Mr. Williams said if bug-killed timber can be harvested quickly it will lose very little value.

REP. TASH asked REP. WAGNER if he and others involved in the legislation would be amenable to changing "limited access opportunity" on line 22 of the bill to "timely opportunity." REP. WAGNER said they would consider it.

Closing by Sponsor:

REP. WAGNER said HB 274 is about limited access to state school trust land and not about any private company's land. REP. WAGNER thanked the committee for a good hearing and urged the committee members to give HB 274 a Do Pass vote.

Tape 4, Side A

EXECUTIVE ACTION ON HB 137

Motion: REP. ROBERT STORY MOVED HB 137 DO PASS.

Discussion: REP. CLIFF TREXLER presented and explained his amendments to HB 137.

Motion/Vote: REP. TREXLER MOVED THE AMENDMENTS TO HB 137. Voice vote was taken. Motion carried unanimously.

Discussion: REP. STORY presented and explained his amendments to HB 137.

Motion/Vote: REP. STORY MOVED THE AMENDMENTS TO HB 137. Voice vote was taken. Motion carried unanimously.

Vote: REP. DANIEL FUCHS MOVED HB 137 DO PASS AS AMENDED. Voice vote was taken. Motion carried 12 to 6.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 274
 DATE 1-25-95 SPONSOR (S) Rep. Wagner

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Steve Kelly	Friends of the Wild Swan	274	X	
Ed REGAN	TOWNSEND- self	274		X
Steve Craig	Carter, self	274		X
Cary Hegreberg	MT Wood Prod. Assoc.	274		X
Don Allen	MWOB	274		✓
Jim Foster	MREA + SAM	274		X
Loran Frazier	Sam			X
DARON DWAN	R-Y Timber	274		X
Stan Frazier	MWF		X	
Janet Ellis	MT Audubon	274	X	
HEITH OLSON	MT. LOGGING ASSN			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
 ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HB 274

Introductory Comments of Rep. Wagner

Mr. Chairman, members of the committee, for the record, my name is Doug Wagner, House District 83. I am introducing this bill to assist the Department of State Lands in managing its numerous tracts of landlocked trust lands for optimum revenue to beneficiaries of those lands.

Particularly in Central Montana, the state owns many tracts of land which are totally surrounded by private lands, and are typically leased to ranchers for livestock grazing. Many of these tracts also have significant stands of timber. You will recall Rep. Ellis referring to tracts of trust land within his ranching operation.

In some cases, this timber was not considered merchantable, or at least not highly desirable, so the Department didn't worry about it. However, with today's high timber prices, those isolated stands have become a valuable commodity. This bill is designed to provide some flexibility for the Department to manage those landlocked sections which require easement across private lands.

The bill allows a private timber company to negotiate a timber sale with the state when the company is already operating on the adjacent private land. In many cases, the private landowner is willing to give the company access as long as crews are operating on his private land anyway. He has a contract which includes provisions for damages, accountability and so on. He may not be willing to grant access at some future date to a company he has never dealt with.

Current regulations require a full environmental review with public comment, and then a competitive bid for the timber. The timeframe for the analysis often precludes access being granted, and the landowner may only be willing to grant access to the operator currently on his own property. Thus, the Department is hamstrung in its ability to manage the section.

I think it should also be pointed out that quite often, the value of standing timber on these sections is significantly higher than the grazing value, which is the classified use of the land. Record high timber values can mean that harvesting a very small acreage can result in more revenue to the trust than 10 years of grazing fees on the entire tract.

Constitutionally, we are obligated to secure the full measure of value from these lands. This bill gives the Department the necessary tools to adequately manage these lands. Mr. Chairman, I urge a do pass recommendation, and reserve the right to close.

EXHIBIT 5
DATE 1-25-95
HB 274

HB 274

NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, GOOD AFTERNOON. I RISE BEFORE YOU TODAY IN SUPPORT OF HB-274.

MY NAME IS ED REGAN. I AM A PROFESSIONAL FORESTER WHO HAS BEEN EMPLOYED WITH MONTANA'S FOREST PRODUCTS INDUSTRY GOING ON 17 YEARS. IN ADDITION TO MY REGULAR EMPLOYMENT, I AM CURRENTLY SERVING AS TRUSTEE FOR THE TOWNSEND SCHOOL DISTRICT.

IN MY OPINION THIS BILL NOT ONLY GIVES THE DEPARTMENT OF STATE LANDS FLEXIBILITY NEEDED TO HARVEST TIMBER ON LAND LOCKED SECTIONS, IT WILL ALSO BRING IN MORE MONEY FOR THE SCHOOL TRUST. SERVING AS A SCHOOL TRUSTEE HAS OPENED MY EYES TO THE FACT THAT OUR SCHOOLS ARE FACING DECLINING SUPPORT FROM BOTH STATE AND FEDERAL SOURCES. HARVESTING TIMBER FROM TRUST LANDS SEEMS TO BE A REASONABLE SOLUTION TO HELP OFFSET THIS DECLINING REVENUE. ADDITIONALLY, THESE RESOURCES ARE NEEDED TO KEEP LOCAL MILLS RUNNING AND MONTANANS WORKING.

THROUGHOUT MY CAREER I HAVE WORKED WITH HUNDREDS OF PRIVATE LANDOWNERS AND MANY OF THE PEOPLE FROM THE DSL. BASED ON MY PERSONAL EXPERIENCE, I WISH TO RELATE A COUPLE OF EXAMPLES WHERE HAVING A LAW SUCH AS HB-274 MIGHT HAVE FACILITATED THE SALE OF MORE TIMBER AND YIELDED ADDITIONAL DOLLARS FOR THE TRUST.

My first example occurred in 1991 on Section 36, T7N R24E, Musselshell County. Our company had the timber contract on the Hougardy ranch, which surrounded this school section. The landowner agreed to

give Brand-S free access to the State timber. We negotiated a small green slip sale with the DSL for the purchase of 70 mbf of sawlogs. Had the department not been constrained by the 100 mbf statutory limit, they could have harvested another 300 mbf from this section. Based on today's market that additional volume would have brought in anywhere from \$30,000 to \$60,000. Grant it, timber prices at that time were much lower, nevertheless these types of situations will continue to confront us in the future.

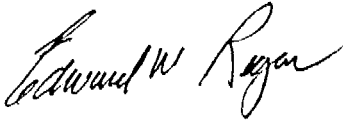
A similar problem occurred in 1986 on school section 36, T6N R23E, located in Golden Valley county. DSL was contacted by Spring Creek Forest Products, of Judith Gap, wherein the company expressed an interest in purchasing the timber on that section. At the time Spring Creek was under contract with Vern Ballard for the harvest rights on his lands. Mr. Ballard agreed to allow the company free access to remove the timber from the school section. Ballard surrounded the section on three sides. Subsequently, DSL cruised and prepared what looked like a very good sale. Because the volume designated for harvest exceeded the 100 mbf limit, DSL was required to advertise on the open market. Mr. Ballard was concerned about opening his lands to operators whom he did not know or would not have any contractual control over. The sale was delayed while DSL tried to prove a public access across one of Mr. Ballard's neighbors. Failing to secure open access, DSL was forced to negotiate with Ballard. During this time Spring Creek finished logging the Ballard property and had moved out of the area. The school timber was finally sold and logged. I visited with Mr. Ballard the other night and asked him if he had any problems resulting from that sale. He did say that "the parties who logged it were always leaving the gates open and after the fall roundup he was short eight cow/calf pairs of which only six pairs were ever recovered." In the final analysis, both Ballard and I agree that this sort of problem could have been prevented had the timber been sold to Spring Creek. Our rationale stemmed from the fact that Spring Creek had a contractual relationship with Ballard which made the company directly accountable to him for any problems resulting from the timber harvest.

OVER THE LAST 10 YEARS I'VE ENCOUNTERED SIMILAR PROBLEMS IN PARK, CHOUTEAU, AND GOLDEN VALLEY COUNTIES. IN ALL CASES DSL HAS DONE ITS JOB PROFESSIONALLY AND BY THE BOOK. HOWEVER, HAD THE DEPARTMENT BEEN ALLOWED MORE FLEXIBILITY UNDER THE LAW, I'M CONFIDENT THAT THEY COULD HAVE SOLD ADDITIONAL TIMBER AT FAIR MARKET PRICES AND IN AN ENVIRONMENTALLY SOUND MANNER.

EXHIBIT 5
DATE 1-25-95
HB 274

FOR THESE REASONS AND THE LIKELYHOOD OF SIMILIAR SITUTATIONS IN
YEARS TO COME, I STRONGLY SUPPORT HB-274 AND I URGE YOUR SUPPORT OF
THE MEASURE. THANK YOU FOR THE OPPORTUNITY TO COMMENT.

ED REGAN
129 N. CHERRY
TOWNSEND, MONTANA 59644



EXHIBIT

DATE

HB

6
1-25-95
274

Friends of the Wild Swan
P.O. Box 5103
Swan Lake, Montana 59911

Montana House Representative Dick Knox, Chairman
House Natural Resources Committee
State Capitol
Helena, Montana

January 25, 1995

Dear Chairman Knox:

On behalf of Friends of the Wild Swan, a non-profit conservation group based in Swan Lake, please accept the following comments on House Bill 274. On its face, H.B. 274 is a bill that caters to large corporate landholders, not the school children of Montana. We oppose H.B. 274.

These are **our** state forests. Squandering our children's natural forest inheritance for short-term corporate profit makes no sense. H.B. 274 establishes bad public policy that sets a dangerous anti-environmental precedent in this legislative body.

H.B. 274 is a thinly-veiled attempt to give huge corporate lumber and pulp producers public resources at less than fair market value, at less than the cost of production — at taxpayer expense.

Section 3(a) refers to "cases of emergency due to fire, insect, fungus, parasite, or blowdown or in cases when the department is required to act immediately to take advantage of a limited access opportunity...." "Emergency" must be clearly defined to eliminate abusive discretion, especially if a 50 million board feet annual cut mandate is inacted (See H.R. 201) prior to a completed state-wide forest inventory and study.

Section 3(b) gives non-competitive, negotiated prices and exclusive rights to corporate landowners. This section is a welfare clause for Montana's richest corporations. Do not be cowed by their political power. There are more appropriate alternatives to consider when access problems are identified as the limiting factor to sound timber management.

Section 3(c) is a full exemption from the environmental analysis and disclosure requirements of the Montana Environmental Policy Act (MEPA). This section also violates the statutory requirements of the Enabling Act and Montana's Constitution. This is a return to the days of clearcut and environmental ruin of the 1960's. Lost is the scientific and economic knowledge of the past 20 years. Lost is any shred of credibility in Department of State Lands' (DSL) ongoing effort to produce a state-wide forest plan

and Environmental Impact Statement (EIS). And of course, corporate welfare produces net annual losses to the School Trust. This is literally a corporate give-away. Why is this committee attacking the laws that protect Montana's environment?

Commercially-sustainable yields of wood fiber should be based on site suitability standards utilizing the following criteria:

- minimum annual cubic feet per acre yield standards
- long-term economic benefit/cost analysis that includes non-cash value costs
- threshold standards for native fish and wildlife habitat
- soil and nutrient capability
- water quality standards
- minimum old-growth habitat retention standard
- regeneration capability

H.B. 274 violates the public trust. The Republican Party's approach, in this committee, to environmental laws and protection of Montana's fish and wildlife habitat is out of touch with the public's desires. You were not elected suck-up to corporate interests, or to destroy bull trout or elk habitat. That's exactly what you're about if you mandate this kind of irresponsible, unsustainable logging that raped Montana's corporate forests. They ruined their forests, now they want ours. Do not give in to corporate power and avarice.

H.B. 274, and H.B. 201(Passed House Natural Resources Committee 12-6), its corporate companion, represent bills that cannot produce the kind of "balance" Chairman Knox promised the public before this legislative session convened. H.B. 274 is fiscally unsound and environmentally destructive. It will seriously damage the public's trust in the Legislature and DSL. You are creating a huge credibility problem.

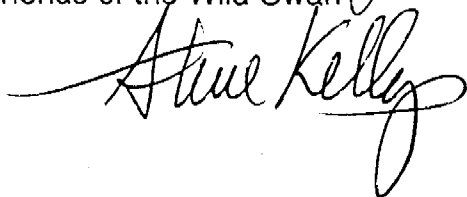
Thank you for the opportunity to testify in opposition to H.B.274.

Sincerely,



Steve Kelly

Friends of the Wild Swan



MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, on January 30, 1995, at 3:00 PM.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 292
Executive Action: HB 263 Postponed
HB 274 Postponed
SJR 2 Be Concurred In

Tape 1, Side A

must meet state requirements but that does not preclude them from requiring stricter standards.

Tape 1, Side B

REP. JAY STOVALL asked Mr. Pilcher if the state or the county is the final authority in an appeal case. Mr. Pilcher said the state is the final authority.

REP. DOUG WAGNER asked Mr. Pilcher if the department changes its guidelines regularly. Mr. Pilcher said the regulations do change from time to time to keep up with changing trends and needs.

Closing by Sponsor: REP. FUCHS said if HB 292 saves one developer from having to litigate against the state it will be worth it.

EXECUTIVE ACTION ON HB 263

Tape 2, Side A (Tape malfunction)

Motion: REP. AUBYN CURTISS MOVED HB 263 DO PASS.

Motion: REP. ROBERT STORY MOVED AMENDMENTS TO HB 263.

Discussion: CHAIRMAN KNOX postponed further action on HB 263 until Wednesday, February 1, 1995 so work could be done on the amendments.

EXECUTIVE ACTION ON HB 274

Motion: REP. DOUG WAGNER MOVED HB 274 DO PASS.

Tape 2, Side B

Discussion: REP. BILL TASH said if the Department of State Lands (DSL) doesn't have the authority to harvest the timber in a timely manner sometimes the opportunity to harvest will be lost if they it has to go through the review process. It will put added pressure on the department and there will be budget constraints if there has to be a full review process for every large or small timber sale opportunity.

Motion: REP. DOUG WAGNER MOVED AMENDMENTS TO HB 274.

Discussion: REP. WAGNER explained the amendments.

REP. HAL HARPER said REP. WAGNER'S amendment would authorize the department to negotiate permanent access. REP. HARPER asked REP. WAGNER if that would allow lumber companies that have landlocked sections to cut the timber at their price with no bids and all the department would have to do is to negotiate access. REP. WAGNER said that isn't the intent of the amendment. The intent is to allow the department to negotiate permanent access to the land so it can be opened to other bidders.

REP. TASH said he was against the amendment because it defeats the purpose of the bill. The bill is intended to expedite timber harvest. The bidding process will slow it down. Bud Clinch, Commissioner, Department of State Lands, said the amendment was drafted specifically to try to alleviate the instance where large timber corporations surround and control access to a tract of land and could hold the department hostage by preventing normal timber sale proceedings. The amendment is an attempt to direct the department to negotiate reciprocal access so there can be a public bidding process in those areas.

REP. ROBERT STORY asked Mr. Clinch to define the term "reciprocal access." Mr. Clinch said in most of the instances where the department is dealing with potential problems when there are multiple ownerships that are crossed with the road access. One way to get around that is to exchange easements so the private landowner the department is trying to negotiate an easement with will also get an easement across the adjacent state land to further access their property.

REP. HARPER asked Mr. Kakuk if he could come up with a possible alternative to REP. WAGNER'S amendment because it was difficult to understand. Mr. Kakuk said an option would be to change subsection 3 b to subsection 3 b(i) and would read the same as it now does. Subsection 3 b (ii) would read "the provisions of subsection 3 b (i) do not apply to situations where the only legal access, etc." This change might clarify the intent.

REP. WAGNER said he agreed with the changes in the amendment.

Motion/Vote: REP. HARPER MOVED TO AMEND REP. WAGNER'S PROPOSED AMENDMENT. Voice vote was taken. Motion carried unanimously.

Discussion: REP. HARPER explained the amendment.

Motion/Vote: REP. WAGNER MOVED THE AMENDED AMENDMENT. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. WAGNER MOVED TO AMEND LINE 15 OF THE BILL TO CHANGE THE WORD "SUCH" THAT WAS STRICKEN TO THE WORD "ANY." Voice vote was taken. Motion carried unanimously.

Motion: REP. WAGNER MOVED HB 263 DO PASS AS AMENDED.

Discussion: REP. HARPER said he thought there should be another amendment to subsection section C, line 30, which says in part "in the situations described in this subsection the department is not required to comply with the Montana Environmental Policy Act." An environmental assessment should be required.

REP. SCOTT ORR asked REP. HARPER if he was offering an amendment. REP. HARPER replied no. REP. ORR said he understood the concern over weakening MEPA rules. The reason MEPA rules were implemented was to change the way of harvesting timber. This has been accomplished. The bill simply asks for a release from those rules not only to make revenue for the school trust but to make use of the timber resource so it won't go to waste.

REP. JON ELLINGSON proposed an amendment to subsection c, line 30 to read "in the situations described in this subsection 3 the department is relieved from the requirements of MCA 75-1-201, subsection 1 to the extent that compliance is precluded by the limited time available to take advantage of the sales opportunities that bind by this subsection."

REP. WAGNER said there is concern where it doesn't need to be, although the amendment may address some of the gray areas.

CHAIRMAN KNOX said he wasn't comfortable with preceding with the amendment without giving Mr. Kakuk time to draft it and present it to the committee. There is a degree of consensus from the committee that REP. ELLINGSON'S proposed amendment is worthy of consideration. CHAIRMAN KNOX deferred further action HB 274 until the amendment has been drafted.

Tape 3, Side B

EXECUTIVE ACTION ON SJR 2

Motion: REP. ORR MOVED SJR 2 BE CONCURRED IN.

Motion: REP. ORR MOVED THE AMENDMENT TO SJR 2.

Discussion: REP. ORR explained the amendment. The amendment ensures the bill is never construed to mean that the state is going to give money to the museum. REP. ORR said SJR 2 passed on second reading and died on third reading on the House floor and he made a move to have it re-referred back to committee.

Vote: Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. ORR MOVED SJR 2 BE CONCURRED IN AS AMENDED.

Voice vote was taken. Motion carried 17 to 1. REP. DOUG WAGNER voted no.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on February 1, 1995,
at 3:00 PM.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 341
Executive Action: HJR 10 DO PASS AS AMENDED
HB 274 DO PASS AS AMENDED
HB 263 DO PASS AS AMENDED
HB 292 DO PASS

Tape 1, Side A

REP. KNOX said consistency needs to be established for the protection of the environment and for the regulated community as well. It is very important that the regulated community understands what the regulations are and how they are going to be enforced. Without that certainty it makes it extremely difficult for the regulated community to operate. It also provides a degree of uncertainty in the minds of the public which also makes it very difficult for the regulated community.

Vote: Voice vote was taken. Motion carried 17 to 1. REP. WAGNER opposed.

Tape 2, Side B

EXECUTIVE ACTION ON HB 274

Motion: REP. DOUG WAGNER MOVED HB 274 DO PASS.

Discussion:

REP. WAGNER offered the first amendment to HB 274.

Michael Kakuk said if the committee members liked the discussion draft they received Monday they would like REP. WAGNER'S amendments.

A second amendment from the Montana Stockgrowers Association was distributed to the committee.

Motion/Vote: REP. WAGNER MOVED THE FIRST SET OF AMENDMENTS TO HB 274. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. WAGNER MOVED THE SECOND SET OF AMENDMENTS TO HB 274. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. WAGNER MOVED HB 274 DO PASS AS AMENDED. Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON HB 263

Motion: REP. AUBYN CURTISS MOVED HB 263 DO PASS.

Discussion:

REP. CURTISS read a statement to the committee denying any attempt to refocus the management of state trust lands on the Constitutional mandate of generating revenue for public schools, or attempting to mask the intent of HB 263. EXHIBIT 1

REP. BOB RANEY said REP. CURTISS stated that the intent of the bill was to clarify that state trust lands are to be managed in a



HOUSE STANDING COMMITTEE REPORT

February 2, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 274 (first reading copy -- white) do pass as amended.

Signed: 
Dick Knox, Chair

And, that such amendments read:

1. Title, line 7.
Following: "EXEMPTING"
Insert: "CERTAIN"
2. Title, line 8.
Following: "FROM"
Strike: "CERTAIN" through "OF"
3. Page 1, line 15.
Following: "~~such~~"
Insert: "any"
4. Page 1, line 22.
Following: "of"
Strike: "a" through "opportunity"
Insert: "access granted by permission of an adjoining landowner"
5. Page 1, line 26.
Following: "(b)"
Insert: "(i)"
6. Page 1, lines 26 and 27.
Following: "of" on line 26
Strike: "a" through "opportunity" on line 27
Insert: "access granted by permission of an adjoining landowner"


Committee Vote:
Yes 18, No 0.

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7. Page 1, line 30.

Following: line 29

Insert: "(ii) The provisions of subsection (3)(b)(i) do not apply to situations when the only access is totally controlled by a potential purchaser of the timber, in which case the department shall seek to negotiate permanent, reciprocal access."

8. Page 1, line 30.

Following: second "in"

Strike: "this subsection (3)"

Insert: "subsections (3)(a) and (3)(b)(i)"

9. Page 2, line 1.

Following: "75-1-201(1)"

Insert: "to the extent that compliance is precluded by limited time available to take advantage of the sales opportunities described by this subsection (3)"

-END-

CHAIRMAN--LORENTS GROSFIELD

SECRETARY--THEDA ROSSBERG

NORMAL SCHEDULE => SITE: ROOM 405

SENATE NATURAL RESOURCES

DAYS: M,W,F

TIME: 3 P.M. OR ON ADJOURN

- BILL NO-- REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

HB0050	LARSON, DON	1/17	1/20	REVISE STATE LANDS TIMBER SALE ACCOUNT AND TIMBER APPRAISAL AND BID PROCESS	CONCUR	VOTE:	3/08
HB0072	DEVANEY, CHARLES	1/13	1/18	REVISE OIL & GAS DRILLING PERMITS	TABLED ON 03/07	VOTE:	
HB0075	WISEMAN, WILLIAM	1/17	1/20	AUTHORIZING DHES TO ADOPT STANDARDS FOR THE MANAGEMENT OF USED OIL	CONCUR	VOTE:	1/24
HB0080	FELAND, GARY	1/13	1/18	REVISE FORFEITURE OF OIL AND GAS PERFORMANCE BOND	TABLED ON 03/07	VOTE:	
HB0162	TAYLOR, LILA	1/31	3/01	GENERALLY REVISING THE STRIP AND UNDERGROUND MINE RECLAMATION ACT	CONCUR	VOTE:	3/08
HB0201	ELLIS, ALVIN	2/21	3/03	ANNUAL SUSTAINABLE YIELD AS FACTOR IN MANAGEMENT OF FORESTED STATE LANDS	CONCUR AS AMENDED	VOTE:	3/15
HB0215	COCCHIARELLA, VICKI	2/21	3/08	DISCLOSURE STATEMENT REQUIRED FOR HAZARDOUS WASTE MANAGEMENT PERMIT	CONCUR	VOTE:	3/10
HB0263	CURTISS, AUBYN	2/20	3/01	CLARIFY TRUST RESPONSIBILITY OF BOARD OF LAND COMMISSIONERS	CONCUR	VOTE:	3/08
HB0274	WAGNER, DOUGLAS	2/06	3/01	EXPEDITE STATE TIMBER SALES IN EMERGENCY AND LIMITED ACCESS SITUATIONS	CONCUR	VOTE:	3/10
HB0292	FUCHS, DANIEL	2/07	3/03	REQUIRE WRITTEN STATEMENT DETAILING RESULTS OF SUBDIVISION REVIEW PROCESS	CONCUR	VOTE:	3/08
HB0338	GRIMES, DUANE	2/21	3/13	REVISE METAL MINE RECLAMATION ACT	CONCUR AS AMENDED	VOTE:	3/21

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 1, 1995,
at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 274, HB 263, HB 381, HB 162
Executive Action: None

{Tape: 1; Side: A}

HEARING ON HB 274

Opening Statement by Sponsor:

REPRESENTATIVE DOUG WAGNER, HD #83, HUNGRY HORSE, told the committee he was introducing HB 274 to assist the Department of State Lands (DSL) in managing its numerous tracts of landlocked trust lands for optimum return (**EXHIBIT #1**).

Proponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, said professional foresters employed by timber companies and DSL field foresters had pointed out that DSL had no viable way to capture timber revenue from many sections of school trust land which are landlocked by private ownership.

He said no one intended to usurp the rights of private property owners who own or lease lands adjacent to timbered school trust lands. The bill stated that in cases where private landowners were willing to grant access for a limited timeframe, the department staff could negotiate a limited timber sale without going through the full MEPA process. Full fair market value would still be secured for timber sold, even though competitive bids would not be solicited. The Bureau of Land Management currently uses a similar system.

Ed Egan, Brand S Lumber Company, Townsend, told the committee he was a professional forester and supported HB 274 because it would give DSL the flexibility needed to properly manage landlocked timber (EXHIBIT #2).

George Bailey, President, Montana Association of School Superintendents, supported the bill because his organization felt HB 274 would lead to sustained yield of timber from school trust lands.

Richard Harwood, said there wasn't much timber in Toole County but he had some experience with state leases and was in favor of the bill. If the state's purpose was maximum income on forest land, that land should probably be turned into 5-acre cabin sites (EXHIBIT #3).

Dan Pittman, Forest Resources of Montana, said he worked with landowners statewide on forest properties and he supported HB 274.

Opponents' Testimony:

Stan Frasier, Helena, objected to the provision in the bill that would exempt sales from MEPA requirements. He did not object to a shorter timeframe to meet those requirements, however.

Steve Kelly, Friends of the Wild Swan, opposed the bill because it would establish bad public land policy and set a dangerous anti-environmental precedent (EXHIBIT #4).

Janet Ellis, Montana Audubon Legislative Fund, was also concerned with the MEPA exemption. Currently salvage sales have to go through MEPA compliance, but in emergency situations that compliance only involves a one-page letter explaining what was done and why. It provides a tracking process.

John Gatchell, Montana Wilderness Association, agreed with Janet Ellis on the MEPA exemption in regard to emergencies, as he felt they were being properly treated at the present time.

Debby Smith, Sierra Club, opposed the bill because of the MEPA exclusion.

Jim Emerson, Helena, said several things about the bill concerned him. He said he had property adjoining a school section and he might want to sell 10-acre parcels. His property has good timber. If the state decided to clearcut its timber, Mr. Emerson's property value would be depreciated. He asked if that contingency were addressed in the bill.

Questions From Committee Members and Responses:

SENATOR VIVIAN BROOKE asked why the sponsor had not signed the fiscal note.

REPRESENTATIVE WAGNER replied that he not only neglected to sign it, he hadn't even brought it with him. He recalled that he had been uncertain how DSL had arrived at some of the values on the fiscal note and had been referred to the DSL Missoula office. He said they told him timber values change frequently - nothing was locked in and by the time the session was over all costs could be changed so there was no need for him to sign it.

SENATOR BROOKE asked if that meant that he would sign it.

REPRESENTATIVE WAGNER responded that he would.

SENATOR LARRY TVEIT, SD #50, SIDNEY, asked if the timber cutting referred to in the bill would be clearcutting. He asked if there would be control over clearcutting.

REPRESENTATIVE WAGNER said that would be up to DSL. He said the bill was meant to grant access and management capabilities to the department.

SENATOR WILLIAM CRISMORE, SD #41, LIBBY, asked Bud Clinch how he would handle a negotiated sale.

Bud Clinch, Commissioner, DSL, said values are determined by using a three-year average of sales. In the case of a specific case where access would be granted by a landowner, they would look at documented stumpage prices of comparable sales and monthly reports. Information on full market value is readily available through his department. It could be provided to anyone requesting it.

SENATOR BROOKE asked about fair and full market value and asked if line 30 should refer to fair or full market value.

MR. CLINCH said the two words are used interchangeably, but relative to their fiduciary requirement for the school trust, the proper term was "full" market value.

SENATOR BROOKE asked **Mr. Bailey** about the fact that there was no mention of additional money coming into schools through this bill. She asked why school superintendents were in such strong support of the bill.

Mr. Bailey replied that he was glad he had been asked that question because it would save him a trip. HB 201 was expected to be heard in several days, and that bill would fund technology for the students of Montana. He said **Mr. Regan** had commented that schools needed help. The legislature had given no extra funding for schools at the time schools should be retooled. If an increased monetary yield from state forests should be realized, HB 201 would assist the school children of Montana.

SENATOR BROOKE asked if the revenue shown on the fiscal note were intended for technology. **Mr. Bailey** said HB 201 would mandate that any increased revenue above 1994 levels would go into a technology fund that would be provided to each district in the state. The projection was around \$12 million/year. He thought the state was obligated to either sell the landlocked land or manage it through a bill like HB 274.

CHAIRMAN GROSFIELD asked if DSL were involved in preparation of the fiscal note. **Mr. Clinch** replied that they were. **CHAIRMAN GROSFIELD** said Item 8 of the fiscal note referred to emergencies and he didn't see the definition of emergency in the bill or in MEPA. He asked where it came from.

Pat Flowers, DSL, said that "emergencies" were in the original language of the bill and DSL felt it should be interpreted and it was put in quotes to signify it was a DSL definition.

CHAIRMAN GROSFIELD asked how the assumed annual 1.3 million board feet were determined in Item 3. **Mr. Flowers** said they looked at potential harvest levels that would meet the criteria of "emergency." He said in most instances, salvage operations won't be emergencies.

CHAIRMAN GROSFIELD asked **REPRESENTATIVE WAGNER** about the projected 1 million board feet target in the bill that could be included in an expedited sale, while current law is 100,000. He asked why the total was so high. **REPRESENTATIVE WAGNER** said the department could answer that question better than he.

MR. CLINCH said he assumed it was a figure projected to reflect existing situations. Most emergency situations are substantially smaller than that. Emergency rules were generally not used in larger situations because the department felt that other resources might be impacted and they would do a complete EA.

SENATOR GROSFIELD said he would think there should be a minimum threshold where the department would do some type of programmatic EA. He asked if Mr. Clinch could estimate what that minimum number would be. Mr. Clinch said he thought there would be instances where small sales of 50,000 board feet, if not done properly and under the supervision of professionals, could result in considerable impacts and large, well supervised sales could result in considerably less impact. The sale of 1 million board feet would probably trigger all the regular MEPA procedures.

Closing by Sponsor:

REPRESENTATIVE WAGNER thanked the committee for a good hearing. HB 274 would not allow DSL to circumvent the Montana Streamside Management Act or the Endangered Species Act or state water quality laws. It would merely give DSL another tool for management of landlocked school trust lands. It would not prescribe clearcuts.

HEARING ON 381

Opening Statement by Sponsor:

REPRESENTATIVE DICK KNOX, HD #93, WINIFRED, told the committee his bill would amend the permitting and enforcement procedures for the metal mine reclamation laws. Section 1 would not allow the Pony mill (if reopened) to be grandfathered.

He said the permitting process had become so complex that he felt changes should be addressed (Section 2).

Section 3 was meant to correct a perceived problem with mine reclamation inspections.

Section 4 would raise the maximum penalty for violations from \$1000 to \$5000.

Section 5 dealt with suspension of permits and established a procedure for administrative hearings.

The bill had good, broad-based support in the House.

Proponents' Testimony:

Bud Clinch, Commissioner, DSL, said REPRESENTATIVE KNOX introduced this bill at the request of his department in response to a Legislative Audit Report. Additional language in the bill adds clarification to existing law.

{Tape: 1; Side: B}

Jeff Barber, Northern Plains Resources Council, supported HB 381, but said the audit of the Hard Rock Bureau had stated the timeframes in existing law forced the bureau to devote all its

1.

DATE 3-1-95

SEN

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HB 274

Introductory Comments of Rep. Wagner

Mr. Chairman, members of the committee, for the record, my name is Doug Wagner, House District 83. I am introducing this bill to assist the Department of State Lands in managing its numerous tracts of landlocked trust lands for optimum revenue to beneficiaries of those lands.

Particularly in Central Montana, the state owns many tracts of land which are totally surrounded by private lands, and are typically leased to ranchers for livestock grazing. Many of these tracts also have significant stands of unmanaged timber.

In some cases, this timber was not considered merchantable, or at least not highly desirable, so the Department didn't bother with it. However, with today's high timber prices, those isolated stands have become a valuable commodity. This bill is designed to provide some flexibility for the Department to manage those landlocked sections which require easement across private lands. The bill also precludes an industrial timber land owner from gaining an advantage on state timber land which is surrounded by land owned by that same company.

The bill allows a private timber company to negotiate a timber sale with the state when the company is already operating on the adjacent private land. In many cases, the private landowner is willing to give the company access as long as crews are operating on his private land anyway. He has a contract which includes provisions for damages, accountability and so on. He may not be willing to grant access at some future date to a company he has never dealt with.

Current regulations require a full environmental review with public comment, and then a competitive bid for the timber. The timeframe for the analysis often precludes access being granted, and the landowner may only be willing to grant access to the operator currently on his own property. Thus, the Department is hamstrung in its ability to manage the section.
(landlocked)

I think it should also be pointed out that quite often, the value of standing timber on these sections is significantly higher than the grazing value, which is the classified use of the land. Record high timber values can mean that harvesting a very small acreage can result in more revenue to the trust than 10 years of grazing fees on the entire tract.

Constitutionally, we are obligated to secure the full measure of value from these lands. This bill gives the Department the necessary tools to adequately manage these lands. Mr. Chairman, I urge a do pass recommendation, and reserve the right to close.

ACCESSING TIMBER RESOURCES ON "LANDLOCKED" TRUST LANDS

HB 274 does the following:

- 1) Allows Department of State Lands (DSL) to capture limited opportunity to generate timber revenue from isolated tracts.
- 2) Applies only when private landowner has already granted access to a timber purchaser.
- 3) Streamlines the environmental review process to accommodate limited time frame.
- 4) Ensures "full, fair market value" as mandated by statute and, the constitution.
- 5) Allows DSL to manage classified grazing lands for optimum productivity of timber and grazing capability.

HB 274 does not:

- 1) DOES NOT allow Department of State Lands (DSL) to circumvent the Montana Streamside Management Act, the Endangered Species Act or State Water Quality Laws.
- 2) DOES NOT allow DSL or the timber purchaser to avoid applying Voluntary Best Management Practices (BMP's). DSL currently has a 95% compliance rate.
- 3) DOES NOT diminish recreational values since the "landlocked" sections are inaccessible to the general public anyway.
- 4) DOES NOT lead to over harvesting because the bill simply expands discretionary authority of DSL professional foresters, it does not mandate timber harvesting.

HB 274

SENATE NATURAL RESOURCES COMMITTEE

MR. CHAIRMAN, FOR THE RECORD, MY NAME IS ED REGAN AND I RESIDE IN TOWNSEND. I AM A PROFESSIONAL FORESTER WITH BRAND-S LUMBER CO., AND I SERVE ON THE TOWNSEND SCHOOL BOARD. I SUPPORT HB-274 IN BOTH CAPACITIES.

HB-274 GIVES THE DEPARTMENT OF STATE LANDS THE FLEXIBILITY IT NEEDS TO PROPERLY MANAGEE TIMBER ON LAND LOCKED SECTIONS WHILE GENERATING ADDITIONAL REVENUE FOR MONTANA SCHOOLS. THE CURRENT LAW IS TOO RESTRICTIVE AND RESULTS IN MANY LOST OPPORTUNITIES. SERVING AS A SCHOOL TRUSTEE HAS OPENED MY EYES TO THE FACT THAT OUR PUBLIC SCHOOLS ARE FACING BOTH REVENUE SHORTFALLS AND HIGHER COSTS. THE SUSTAINABLE HARVEST OF TIMBER FROM STATE LANDS SEEMS TO BE A REASONABLE SOLUTION TO OFFSET DECLINING EDUCATION DOLLARS. BESIDES, THE ADDITIONAL TIMBER GENERATED UNDER HB-274 IS NEEDED TO KEEP LOCAL MILLS RUNNING AND MONTANAN TAXPAYERS WORKING.

THROUGHOUT MY SEVENTEEN YEARS IN MONTANA'S FOREST PRODUCTS INDUSTRY I HAVE WORKED WITH HUNDREDS OF PRIVITE LANDOWNERS AND MOST OF THE PEOPLE FROM THE DSL. BASED ON MY OWN PERSONAL EXPERIENCE, I WISH TO RELATE A COUPLE OF EXAMPLES WHERE HAVING A LAW SUCH AS HB-274 COULD HAVE FACILITATED THE SALE OF MORE TIMBER AND YIELDED ADDITIONAL DOLLARS FOR THE TRUST.

My first example occurred in 1991 on Section 36, T7N R24E, Musselshell County. Our company had the timber contract on the Hougardy Ranch, which surrounded this school section. The landowner agreed to

EXHIBIT NO. 2DATE 3-01-95BILL NO. HB-274

FOR THESE REASONS AND THE LIKELYHOOD OF SIMILIAR SITUTATIONS IN
YEARS TO COME, I STRONGLY SUPPORT HB-274 AND I URGE YOUR SUPPORT OF
THE MEASURE. THANK YOU FOR THE OPPORTUNITY TO COMMENT.

ED REGAN
129 N. CHERRY
TOWNSEND, MONTANA 59644

give Brand-S free access to the State timber. We negotiated a small green slip sale with the DSL for the purchase of 70 mbf of sawlogs. Had the department not been constrained by the 100 mbf statutory limit, they could have harvested another 300 mbf from this section. Based on today's market that additional volume would have brought in another \$30,000 to \$60,000. Grant it, timber prices at that time were much lower, nevertheless these types of situations will continue to confront us in the future.

A similar situation occurred in 1986 on school section 36, T6N R23E, located in Golden Valley county. DSL was contacted by Spring Creek Forest Products, of Judith Gap, wherein the company expressed an interest in purchasing the timber on that section. At the time Spring Creek was under contract with Vern Ballard for the harvest rights on his lands. Mr. Ballard agreeded to allow the company free access to remove the timber from the school section. Ballard surrounded the section on three sides. Subsequently, DSL cruised and prepared what looked like a very good sale. Because the volume designated for harvest exceeded the 100 mbf limit, DSL was required to advertise on the open market. Mr. Ballard was concerned about opening his lands to operators whom he did not know or would not have any contractual control over. The sale was delayed while DSL tried to prove a public access across one of Mr. Ballard's neighbors. Failing to secure open access, DSL was forced to negotiate with Ballard. During this time Spring Creek finished logging the Ballard property and had moved out of the area. The school timber was finally sold and logged. I visited with Mr. Ballard the other night and asked him if he had any problems resulting from that sale. He did say that "the parties who logged it were constantly leaving the gates open. Ballard later discovered he was short eight cow/calf pairs of which only six pair were ever recovered." In the final analysis, both Ballard and I agree that this sort of problem could have been prevented had the timber been sold to Spring Creek, in which case, company had a contractual relationship with Ballard and was accountable to him for any problems or losses resulting from the timber harvest on state land.

IN THE PAST OUR COMPANY HAS ENCOUNTERED SIMILIAR PROBLEMS IN PARK, CHOUTEAU, AND GOLDEN VALLEY COUNTIES. IN ALL CASES DSL HAS DONE ITS JOB PROFESSIONALLY AND BY THE BOOK. HOWEVER, HAD THE DEPARTMENT BEEN ALLOWED MORE FLEXIBILITY UNDER THE LAW, I BELIEVE THEY COULD HAVE SOLD MORE TIMBER, GENERATED HIGHER RETURNS AND IMPROVED THE HEALTH OF OUR FOREST.

Comments on State School Trust Lands.

EXHIBIT NO. 3

DATE 3-01-96

BILL NO. HB-274

There is a problem with maximizing the amount or rate of return on State land. As a landlord, the State should act as a responsible person would be expected or required to act. If specific improvements would increase the long term return than the proper action for the state is to assist in funding or make adjustments to leases to insure that such improvements are done.

For example: On Forest land MAXIMUM ECONOMIC RETURN would probably require that all state leases be opened to cabin site development on a 5 or 10 acre basis. The NEXT MAXIMUM would be to encourage thinning of stands INCLUDING Green/Standing timber for firewood/pulping/chipping etc., which would increase the amount and shorten the time for economic logging. This would also increase the grazing potential for GAME animals as well as livestock increasing the potential AUM income and allowing larger numbers of out of state game license. Also the state as a landlord MUST share in the cost of control of noxious weeds.

On crop land leases, encouraging, by cost sharing, fertilizer and other crop enhancement programs an increased return could be expected. In most private leases once the landlord's share is 1/3 (one third) or more, expenses incurred that are improvements to the land are also equally shared.

On grazing leases, there are many lease units in Toole county and other places that were poor quality land in the first place. These units were either not homesteaded or the state ended up with the ground in lew of taxes etc. (Look at a map showing state land in Toole county that are NOT Sections 16 or 36 in each township.) There are specific, well proven actions that can be done to improve the amount of grass (or grain crops for that matter) that are can be raised on these units. Such practices as changes in fencing or improved water access, gouging, direct reseeding, fertilizing, breaking and seeding improved species of grass and/or legumes, spraying herbicides to remove specific problem plant species (sage brush, leafy spurge and knap weed are high on the list) or allowing greater flexibility in stocking rates or timing periods of livestock grazing to affect the plant population. Grazing sheep on leafy spurge areas and high cattle rates for a short time then allowing a rest period are examples of the latter.

The point is that all require higher initial costs or greater management effort. Private landlords (most at any rate), recognize these costs and either share in the cost of providing such improvements or adjust their leases accordingly. This is a two edged sword and I recognize that if such improvements are allowed that the returns received by the state on such improved leases should be equal to the returns received by private landowners and that rates per AUM, crop share or cash lease must be adjustable as well. The only fair way that I can see to accomplish this is for the state department of lands to have a series of three or four GRADES of land use and have varying lease rates to reflect these grades. This would require a land survey by range, crop and recreation specialists with plans to be

developed jointly with the lease holders. These plans would have to have timetables (and flexible ones at that) and funding provided as necessary.

EXHIBIT NO. 3
DATE 3-01-95
FILE NO. HB-274

IN MY OPINION, such funding would be of more LONG TERM benefit to the state than having some COAL TAX TRUST FUNDS in financial deposits. I recommend that a revolving credit fund of at least \$10,000,000 (ten million) be established to aid leasees in implementing such practices. I look at this proposal as a means to improve the states image as a responsible land owner and as such the interest rate should be no higher than the rate of return on other state funds. This is in fact a subsidy but I view this AS NO DIFFERENT than tenure for TEACHERS whose JOBS YOU are trying to protect. Those individuals in any specific activity that is given state protection should be judged by the same criteria. There is NO DIFFERENCE between minimum wage and worker protection laws and lease holders preference or reduced rate allowances. EACH and EVERY such law should have a (by name) public listing of the beneficiaries. This also includes such things as HIGHER EDUCATION. I CAN SEE NO DIFFERENCE between the State EXPORTING A BUSHEL OF WHEAT AND A GRADUATE OF THE STATE UNIVERSITY SYSTEM.

IF MAXIMUM ECONOMIC YIELD IS THE GOAL THEN EVERYONE SHOULD BE GOVERNED BY THAT RULE.

Thank You for your time in reading this entire tirade.

Yours Truly
Richard T. (Tom) Harwood



Box 62
Galata, Mt. 59444
432-2778

Friends of the Wild Swan
P.O. Box 5103
Swan Lake, Montana 59911

SENATE NATURAL RESOURCES
EXHIBIT NO. 4
DATE 3-01-95
BILL NO. HB 274

Montana Senator Lorents Grosfield, Chairman
Senate Natural Resources Committee
State Capitol
Helena, Montana 59620

February 28, 1995

Dear Chairman Grosfield:

Steve Kelly

On behalf of Friends of the Wild Swan, a non-profit conservation group based in Swan Lake, please accept the following comments on House Bill 274. On its face, HB 274 is a bill designed to benefit large landholders and timber processors, not Montana's school children. Squandering scarce environmental capital — our children's natural forest inheritance — for short-term industry profit makes no sense. We oppose HB 274.

These are our state forests. HB 274 is one of a series of bills, written by timber industry lawyers, that establishes bad public land policy and sets a dangerous anti-environmental precedent.

HB 274 is a thinly-veiled attempt to give lumber and pulp producers public resources at less than fair market value, at less than the cost of production — at taxpayer expense.

Section 3(a) refers to "cases of emergency due to fire, insect, fungus, parasite, or blowdown or in cases when the department is required to act immediately to take advantage of a limited access opportunity..." These are all normal occurrences found in the healthiest of forests. "Emergency" must be clearly defined to eliminate abusive discretion, especially if a 50 million board feet annual cut mandate is enacted (See HB 201) prior to a completed state-wide forest inventory and study.

Section 3(b) gives non-competitive, negotiated prices and exclusive rights to adjacent landowners. This section is a welfare clause for Montana's richest land barons and timber corporations. There are more appropriate alternatives to consider when access problems are legitimately identified as the limiting factor to sound timber management.

Section 3(c) is a full exemption from the environmental analysis and disclosure requirements of the Montana Environmental Policy Act (MEPA). This section also violates the statutory requirements of the The Enabling Act and Montana Constitution. An exemption from MEPA effectively returns school trust lands management to the

days of clearcut and environmental ruin of the 1960's. Lost is the scientific and economic knowledge of the past 30 years.

Commercially-sustainable yields of wood fiber should be based on site suitability standards utilizing the following criteria:

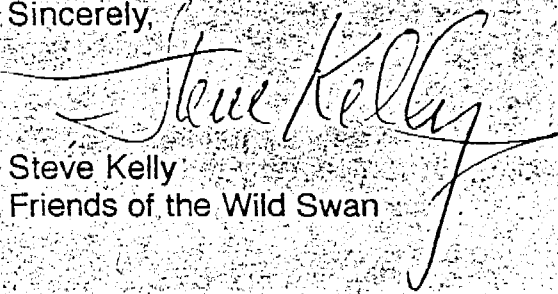
- minimum annual cubic feet per acre yield standards
- long-term economic benefit/cost analysis that includes non-cash value costs
- threshold standards for native fish and wildlife habitat
- soil and nutrient capability
- minimum old-growth habitat retention standard
- regeneration capability
- water quality standards

HB 274 violates the public trust. This attempt to weaken environmental laws and reduce protection of Montana's fish and wildlife habitat is out of touch with the public's desires. Unsustainable logging practices raped Montana's corporate forests. They ruined their forests, now they want to cut ours. I urge you not to give in to corporate power and avarice.

HB 274, combined with HB 201 and HB 263, its corporate companions, represent bills that destroy big game habitat, native trout streams and old growth forests. HB 274 is fiscally unsound and environmentally destructive. You are creating a huge credibility problem for the 1995 Legislature if you pass this bill.

Thank you for the opportunity to testify in opposition to HB 274.

Sincerely,

A handwritten signature in cursive script that reads "Steve Kelly". The signature is written in dark ink and is positioned above the printed name and affiliation.

Steve Kelly
Friends of the Wild Swan

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on March 6, 1995,
at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Jeff Weldon

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: HJR 10, HB 162,
HB 381, HB 80,
HB 72, HB 50,
HB 274, HB 263,
and HB 292

EXECUTIVE ACTION ON HJR 10

Motion:

SENATOR B. F. "CHRIS" CHRISTIAENS MOVED TO CONCUR IN HJR 10.

agriculture, grazing, oil and gas, etc. That bill did not move forward and therefore, has no impact.

Motion:

SENATOR CRISMORE MOVED TO CONCUR IN HB 50.

Discussion:

SENATOR CHRISTIAENS asked if there already was a timber sale account, or is HB 50 setting one up. Mr. Clinch replied the bill makes the State Special Revenue account permanent which was established through HB 652.

Vote:

MOTION TO CONCUR IN HB 50, CARRIED UNANIMOUSLY.
(SENATOR CRISMORE will carry the bill)

{Tape: 2; Side: A}

EXECUTIVE ACTION ON HB 274

Motion:

SENATOR CRISMORE MOVED TO CONCUR IN HB 274.

Discussion:

SENATOR CRISMORE said HB 274 deals with isolated tracts of state land and with on negotiated timber sales.

CHAIRMAN GROSFIELD said on Page 1, Lines 23-24 it says: "timber proposed for sale not in excess of 1 million board feet..." He asked how many state land timber sales on one section or less amount to that much timber. Mr. Clinch replied that of the 20 sales they do in an average year, 17-18 were in excess of 1 million board feet.

CHAIRMAN GROSFIELD reviewed his proposed amendments with the committee members. He said since there would only be 1.3 million board feet harvested per year, he thought it would make sense to lower that figure to 500,000 board feet. On Page 2, subsection (ii) says: "...the department shall seek to negotiate permanent, reciprocal access." They already dealt with a bill regarding

reciprocal access and didn't think the language fit in the bill. He said his amendment would strike that section and also subsection (c) entirely. That section would remove MEPA compliance. Most of the time there would have to be an Environmental Assessment on those lands. By leaving that in there, people may try to play games with the bill.

Motion:

CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. hb027401.ate.

Discussion:

SENATOR TVEIT said the amendments change the character of the bill quite a bit.

Mr. Clinch said the bill was not drafted at the request of the department. He said it would be incredibly coincidental that there may be one sale of 1 million board feet and two sales of 150,000 board feet. Reducing that figure to 500,000 board feet may not be an issue for the next 5 years. If there was some land that had 750,000 board feet, it would be difficult to go back and recover the other 250,000 board feet.

Mr. Clinch said that regarding the last section about striking the exemption from MEPA, even though in most instances those activities only require an EA, there are time-frame issues associated with advertising the sales. He felt that these amendments will limit the department's opportunities in the future.

Mr. Clinch said he didn't have a problem with striking lines 2 and 3 on page 2 of the bill. The reason that was in the bill was so an owner of the land didn't wind up also being the purchaser of that timber. If they have reciprocal access they would have the opportunity to market the timber on an open-market.

Substitute Motion:

CHAIRMAN GROSFIELD MADE A SUBSTITUTE MOTION TO ELIMINATE NO.2 OF HIS PROPOSED AMENDMENTS AND CONSIDER AMENDMENTS 1,3, AND 4.

Discussion:

SENATOR CRISMORE said that in his opinion, amendment no. 2 should be left in the proposed amendments.

SENATOR COLE said because they were only talking about a small amount of timber, he didn't see where the amendments would improve the bill. He said he opposed all of the amendments.

Vote:

MOTION TO ADOPT AMENDMENTS NO. hb027401.ate, NO'S. 1,3, and 4 resulted in a tie vote of 4-4. As some members were absent CHAIRMAN GROSFIELD announced that he would hold the vote open until the next meeting, scheduled for March 8, 1995, when they would continue Executive Action on HB 274.)

EXECUTIVE ACTION ON HB 263

Motion:

SENATOR COLE MOVED TO CONCUR IN HB 263.

Motion:

CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. hb026301.ate AS CONTAINED IN EXHIBIT 2.

Discussion:

CHAIRMAN GROSFIELD reviewed his proposed amendments to HB 263. He said they clarify what the intent of the bill was. He said the bill was trying to codify what the department thought that the situation was with respect to the use of those funds. The bill was unclear as to what, "other worthy objects" mean. The amendment lists what those may be. The bill was trying to prevent judicial activism that would tend to legislate away from what has been the current practice.

SENATOR CRISMORE asked Don Allen if he thought the way the amendments were worded they would stray from the intent of the bill. He said the key word there was "include." The intent of the bill is to clarify for the courts and the State Lands Board that the listing is an exclusive listing what they are. CHAIRMAN GROSFIELD said he would change that by striking "include" and insert "are limited to", in his amendment.

SENATOR BROOKE asked Mr. Everts where public schools were included. He answered that Line 14 says: "...held in trust for

1.

DATE 3-6-95

SEN

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-06-95 BILL NO. HB-277 NUMBER

MOTION: To Adopt Amendment #0274.01.ate

NO's 1, 3 & 4

4-4

(Hold until 3-8-95)

NAME	AYE	NO
VIVIAN BROOKE	X	
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE		X
WILLIAM CRISMORE		X
MIKE FOSTER		
TOM KEATING		
KEN MILLER	X	
JEFF WELDON		
BILL WILSON	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 8, 1995,
at 4:15

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Jeff Weldon

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 215, HB 461, HB 489.
Executive Action: HB 215, HB 461, HB 489, HB 274

HEARING ON HB 489

Opening Statement by Sponsor:

REP. ED GRADY, HD #55, CANYON CREEK, told the committee HB 489 would allow the sale or exchange of certain state lands (the Helena fairgrounds, some property near Lewistown and some near Boulder) to other public entities (counties). The bill originally called for transfer to nonprofit corporations, but that stipulation was removed in the House. The exchanges would be for community service or other public purposes.

SEN. VIVIAN BROOKE said Ross Electric had been in the news for several years, and asked what REP. COCCHIARELLA had heard about the company in subcommittee meetings.

REP. COCCHIARELLA replied that SEN. BROOKE probably knew more about the subject than she did, but Ross did not fit under the definition of hazardous waste management facilities. The bill would have nothing to do with Ross, although they had been a major topic of discussion.

CHAIR. GROSFIELD asked Mr. Kakuk how Ross Management would be classified - if not as a hazardous waste management facility, would it be a solid waste management facility? Mr. Kakuk said that was correct.

CHAIR. GROSFIELD asked if the bill could be amended to include Ross Electric. Mr. Kakuk responded that if this committee wanted to draft an amendment to include Ross under those provisions, it could do so. It would, however, be subject to a challenge in the Rules Committee.

SEN. MIKE FOSTER said a great deal of thought went into the bill and it was very clear that it related to hazardous waste facilities. If the bill were opened up to solid waste facilities, it could cause innumerable problems, and he urged that the bill not be amended.

Closing by Sponsor:

REP. COCCHIARELLA reminded the committee that HB 215 was the only consensus point reached after a great deal of discussion and she urged that the committee do concur. She also thanked the many people who took part in the study group.

EXECUTIVE ACTION ON HB 215

Motion/Vote: SENATOR FOSTER MOVED HB 215 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY TO CONCUR IN HB 215.

CONTINUATION OF EXECUTIVE ACTION ON HB 274

CHAIRMAN GROSFIELD commented that the discussion on March 6th on the amendment to HB 274 was left on a tie vote (4 to 4) as three members were not present and able to vote on the amendment. It was his understanding that several senators would like to revisit that amendment, and he said he would therefore open Executive Action on HB 274 by moving the same amendment voted on previously.

Motion: SENATOR GROSFIELD MOVED AMENDMENT hb27401. atē. SENATOR GROSFIELD reminded committee members that his motion included only the amendment items 1, 3 and 4, not item 2.

Vote: A ROLL CALL VOTE OF SIX TO FIVE AGAINST THE AMENDMENT FOLLOWED AND THE MOTION FAILED.

SENATOR GROSFIELD said he had anticipated that the motion might fail and suggested instead amendment No. 27402. The amendment would say that the Department of State Lands would have to act within 30 days. He said he had not had an opportunity to discuss the amendment with the department.

Bud Clinch, Commissioner of State Lands, said his department had no objection to the amendment and thought it was a reasonable solution.

Discussion:

SEN. BROOKE asked if the time limit would have to be observed in all cases. **CHAIR. GROSFIELD** replied that it would apply only in cases where people would say they would sell timber if it could be taken immediately and would not grant access to it if there were a delay. In those cases, DSL would have to expedite the EA process.

SEN. KEATING commented that if there were public objections to the EA and to the permit, the process could be stopped, particularly if a complaint were filed in district court. There would be no way to make the court act within 30 days. The intent of the bill was to exempt emergency situations from the Montana Environmental Policy Act (MEPA).

SEN. GROSFIELD replied that if someone were serious enough to take the matter to court they might do it even if the bill passed as written.

John North, Chief Legal Counsel, DSL, agreed that under existing language DSL could be brought into court to show to what extent compliance was precluded by the time available. He thought it might also be possible under the proposed amendment, but it was less likely that the action would be successful.

SEN. KEN MILLER asked what would happen if the EA were not accomplished within 30 days - would a timber sale go ahead or would it be held up because an EA wasn't done. **CHAIR. GROSFIELD** responded that he didn't know.

Todd Everts, Environmental Quality Council, said the Cadillac case (litigated by John North) stated that when a time constraint was imposed by Statute that time constraint would supersede MEPA, so the sale would go.

SEN. COLE commented that seasons (bad weather or spring breakup) could cause a problem with the 30-day limit, also.

CHAIR. GROSFIELD said the bill covered a timber sale of up to 1 million board feet, and he didn't think there would be many that

large that could happen immediately. As he understood it, in the past there have been occasions where the EA had been delayed for several months and then a problem did result. Thirty days should be workable.

Mr North commented that all timber sales are taken to the Land Board on a monthly basis. He said on the average there was about a two-week delay getting to the Land Board for a decision.

Mr. Clinch mentioned that the amendment stated that after permission was granted there would be 30 days before DSL could proceed. He asked if it were the intent that MEPA compliance had to be obtained before the timber sale could be processed.

Mr. Everts said the amendment was intended to target a certain date, and the amendment ties the date back to the time access permission was granted.

SEN. WILLIAM CRISMORE asked if the same regulations would be required on very small sales. CHAIR. GROSFIELD said the bill only applied to specific access situations.

Mr. Everts said through the planning process at DSL those situations were categorically excluded from MEPA. Salvage sales might or might not be excluded.

Mr. Clinch said that issue was being discussed in the department's programmatic EIS. The small sale program was somewhat different and was similar to the Forest Service's "Green Slip" sale permit. It would not be affected by the bill.

Motion: SENATOR GROSFIELD MOVED AMENDMENT NO. 27402.ate TO HB 274.

Vote: A ROLL CALL VOTE FOLLOWED, WITH FIVE VOTING AYE AND FIVE VOTING NAY AND THE MOTION FAILED.

Motion/Vote: SENATOR CRISMORE MOVED TO CONCUR IN HB 274 AS WRITTEN. MOTION WAS CONCURRED IN WITH SENATOR WELDON VOTING NO.

HEARING ON HB 461

Opening Statement by Sponsor:

REPRESENTATIVE WILLIAM RYAN, HD #44, GREAT FALLS, told the committee his bill would create the Montana Emergency Response to Hazardous Material Incidents Act (EXHIBIT #2). It was developed over a two-year period by the State Emergency Response Committee appointed by the Governor. The purpose of the bill was to allow all entities involved in response to a disaster to work together.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 274 (third reading copy -- blue), respectfully report that HB 274 be concurred in.

Signed: Lorents Grosfield

Senator Lorents Grosfield, Chair

 Amd. Coord.

 Sec. of Senate

SEN. WILLIAM CRISMORE
Senator Carrying Bill

551057SC.SRF

1.

DATE 3-8-95

SEN

SEN:1995
wp.rollcall.man
CS-09

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-8-95 BILL NO. HB 274 NUMBER 1
MOTION: To adopt AMENDMENT to hb 027401. ate #'s (1)(2)(4)
Failed 6-5

NAME	AYE	NO
VIVIAN BROOKE	X	
B.F. "CHRIS" CHRISTIAENS	X	
MACK COLE		X
WILLIAM CRISMORE		X
MIKE FOSTER		X
TOM KEATING		X
KEN MILLER		X
JEFF WELDON	X	
BILL WILSON	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-8-95 BILL NO. HB 274 NUMBER 2

MOTION: To AMENDMENT h b 027402 ate

Failed 5 to 5

NAME	AYE	NO
VIVIAN BROOKE	X	
B.F. "CHRIS" CHRISTIAENS	X	
MACK COLE		X
WILLIAM CRISMORE		X
MIKE FOSTER		X
TOM KEATING		X
KEN MILLER	X	
JEFF WELDON		
BILL WILSON	X	
LARRY TVEIT, VICE CHAIRMAN		X
LORENTS GROSFIELD, CHAIRMAN	X	